period of two calendar months from today and that he pay the costs of this motion. I further on the authority of the case in the Weekly Notes and the case in (1907) 2 K.B. 539 cited above summarily order the Respondent to pay within one week the amount due to Messrs. Campbell & Co.

Order accordingly.

[ORIGINAL CIVIL JURISDICTION]

IN THE MATTER OF THE RENT RESTRICTION ORDINANCE 1921

and

IN THE MATTER OF AN APPLICATION BY LIM CHENG SWEE TO THE RENT ASSESSMENT BOARD, SINGAPORE FOR THE RE-HEARING OF THE APPLICATION OF MELANIE LEE No. 3981 of 1921.

[S'PORE ORIGINATING SUMMONS No. 113 of 1921]

Rent Assessment Board—whether a Court—power to re-hear applications—jurisdiction—Writ of Prohibition—Rent Restriction Ordinance, Ss. 9, 10 and 13.

The Rent Assessment Board is a Court. It has no power to re-hear applications except under Section 9 Sub-section 5 of the Rent Restriction Ordinance 1921.

Such powers of re-hearing only apply to applications under Section 9 of that Ordinance and not to other applications under other parts of the Ordinance.

A Writ of Prohibition will issue in a proper case to prohibit the Board from exceeding their jurisdiction.

Application by way of Originating Summons for a Writ of Prohibition addressed to the President and Members of the Rent Assessment Board to prohibit them from re-hearing an application by a Landlord for permission to eject a Tenant.

Battishill for the Applicant (the Landlord).

Koek for the Respondent (the Tenant).

The Rent Assessment Board were unrepresented.

The facts sufficiently appear from the Judgment.

BARRETT-LENNARD, J.—I am of opinion that in this case a Prohibition should issue.

The first point made by Mr. Koek was that the Rent Assessment Board is in truth not a Court at all, or at any rate not a Court when acting under Section 10 of the Rent Restriction Ordinance. A Court is a body which hears evidence and upon such evidence adjudicates, passes a decree or order, or possibly grants a licence.

It is not necessary to discuss that question at any length in this case, because the Legislative Council has thought it right to set the matter at rest by Sub-Section 9 of Section 13. That sub-section says "the proceedings of the Board shall be deemed to be judicial proceedings," and there can be no judicial proceedings before a body which is not a Court.

Then the second contention is that the Board has hitherto never heard the application in the presence of the parties: that the proceedings were *ex parte* and that an *ex parte* order or orders made in the absence of one of the parties is always open to review. I do not agree that the Board in fact proceeded *ex parte* within the meaning of the rule at all. Originally the Board did undoubtedly hear the landlord in the absence of the tenant. It was no fault of the President or Members of the Board that this course was pursued. The Board apparently sent a notice calling upon the tenant to come forward and oppose the order sought by the landlord. But the postcard miscarried and as a result the tenant was ignorant of the proceedings. The President and members of the Board not unnaturally thought that the tenant was too indifferent to appear and contest the proceedings and they, therefore, very naturally heard the landlord and gave judgment in his favour.

Then a gentleman, a Counsel, Mr. Tampoe Phillips, wrote to the President of the Board a letter in which he reflects upon the procedure. The President referred the matter to his colleagues and they decided to re-hear. Up to that stage the Board were probably quite right. They had not yet heard the tenant and undoubtedly, the tenant had a right to be heard. Mr. Tampoe Phillips duly appeared before the Board, and the President called upon him to present his case. He said "It is not convenient for me to present my case to-day. My client is not here. I am not fully instructed so I cannot argue. I cannot produce evidence." The Board then resolved to abide by the Order which they had made before.

Later a second application for re-hearing was made and the Board being obviously very anxious not to commit themselves to an Order which might possibly work a hardship upon the tenant gave permission to him to present his case. When the day fixed for such review or re-hearing arrived objection was taken by Mr. Battishill, counsel for the landlord, that there was no power on the part of the Board to re-hear. The Board upheld this objection. In my opinion the resolution of the Board upholding the objection of Mr. Battishill was perfectly right. It is the policy of the law that Tribunals shall not review or re-hear cases. If they were at liberty to do so there would never be an end to judicial proceedings at all.

It seems to me, the policy of the law being to restrain Tribunals from re-hearing after they have decided in the presence of the parties or after giving the parties the fullest opportunity of

presenting their respective causes, that the Board here erred out of a spirit of tenderness towards the tenant in determining to re-hear this application. Accordingly I must, if necessary, issue the writ of prohibition, which it will probably be quite unnecessary to do, as the Board will no doubt treat this as the equivalent of a writ in itself.

After subsequent discussion His Lordship said that the writ should be drawn up but would lie in the Registry until further order.

Costs awarded against the Respondent (the Tenant).

Solicitors for the Applicant (the Landlord)—
Sisson & Delay.

Solicitor for the Respondent (the Tenant)—
E. R. Koek.

[ORIGINAL CIVIL JURISDICTION.]

THE STATE OF SELANGOR .. Plaintiff

vs.

KEPONG DREDGING CO., LTD. .. Defendants

[SELANGOR CIVIL SUIT No. 254 of 1932.]

Courts Enactment, 1918, Section 77 (i) (c), Rules 1929, Second Schedule, Item 3—Costs of consulting authorities and getting up the case for trial.

Item 3 in the Second Schedule of Advocates' and Solicitors' fees is intended only to apply to the preparation of a suit for trial or for getting up a case for appeal. Until the pleadings are closed and the issues joined between the parties, it is premature for a solicitor to attend upon witnessess to produce evidence, or get up the case for trial.

V. Mackie for Plaintiff.

W. V. D. Skrine for Defendants.

THORNE, AG. C.J.—The plaintiff sued the defendant Company to recover the sum of $10,469.44 alleged to be due to the plaintiff under the terms of an agreement in writing made between them and dated the 6th day of February 1928, which was an agreement for the supply of electrical energy for the operation of the defendants' dredge.

The defendants applied for leave to appear and defend, and on the 9th of June 1932 the Registrar gave such leave. Thereafter the parties entered into negotiations for a settlement, one of the terms of which was that the plaintiff's costs should be taxed by the Court as between party and party. The plaintiffs filed a bill for taxation in which they charged an item—

"Consulting authorities and getting up case —$500."

Upon taxation the Registrar taxed off $400, thus allowing to the plaintiff the sum of $100.

The plaintiff appealed against the decision of the Registrar disallowing $400 out of the $500 charged. The defendants appealed from the decision of the Registrar allowing the plaintiff $100 on this item. The matter was argued before me in Chambers on the 22nd of July, whereupon I made an order dismissing the plaintiff's appeal, and allowing the defendants' appeal, with costs, which I assessed at the sum of $25.

The item appears as No. 3 in the Schedule of the Rules, at page 288 of the volume of the 1929 Enactments. The Rule reads as follows:—

> "The Registrar may allow a general fee for consultation of authorities, attendance upon witnesses, producing evidence, and getting up the case for trial or for appeal, having regard to all the circumstances."

This has been taken from item 78 of the Schedule of costs in the Colony of the Straits Settlements. A comparison of the two items shows that the words "consultation of authorities" have been introduced in the Federated Malay States item.

The item is intended to reimburse the litigant for work done in the preparation of the case for trial, which under the English practice would be included in two items, namely, 'instruction for brief and fee on brief.' In the Colony of the Straits Settlements the item has always been construed as covering only the getting up of the evidence and facts of the case and as not including the search for and noting up of authorities, and generally getting up the law.

In the Federated Malay States the introduction of the words 'consultation of authorities' makes it clear that this item is intended to cover the preparation of the case for trial both as to the facts and the law.

It seems clear, however, that the item is intended only to apply to the preparation of a suit for trial or for getting up of a case on appeal.

In this case the proceedings had gone no further than an application for leave to appear and defend in the suit. Until the pleadings had been closed and the issues joined between the parties, it was impossible to know what evidence would be necessary on the part of the plaintiff. It was, therefore, premature for the plaintiff's advisers to attend upon the witnesses to produce evidence or get up the case for trial.